

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

In the Matter of:

Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for)	WC Docket No. 07-135
Local Exchange Carriers)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Intercarrier)	CC Docket No. 01-92
Compensation Regime)	
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service)	
)	
Lifeline and Link-Up)	WC Docket No. 03-109

**COMMENTS OF THE UTAH PUBLIC SERVICE COMMISSION AND UTAH
DIVISION OF PUBLIC UTILITIES**

Introduction

The Utah Public Service Commission (PSC) and the Utah Division of Public Utilities (Division) submits the following comments in opposition to the Commission's Notice of Proposed Rulemaking in the above referenced dockets. The PSC and the Division are state government agencies statutorily tasked with ensuring reasonably priced, reliable service for utility customers. Many commenters will undoubtedly wade deeply into the Commission's rulemaking and take issue with its policies. The PSC's and Division's comments will not address each point in turn, instead raising a few broader issues the Commission should resolve before acting on the rulemaking.

Utah's rural telecommunications companies have built advanced infrastructure serving the vast majority of customers in their collective territories. Despite the wide dispersion of customers in Utah's rural areas, customers generally enjoy excellent telephone and broadband service at reasonable rates. In short, rural telecommunications companies and the regulatory community

have been generally successful. State Universal Service Funds, federal support, and generally good management have enabled this. The Commission's plans for the Connect America Fund would endanger what continues to be a successful, well-regulated program in Utah.

The PSC's and the Division's ability to achieve their collective mission of ensuring reasonable, reliable service is jeopardized by the Commission's proposal. By cutting support for companies that have incurred indebtedness to build infrastructure in reliance on federal support, the proposal will injure Utah's rural telecommunications customers, threaten the state's Universal Service Fund, and imperil Utah's rural telecommunications companies. Further, the rulemaking represents an effective abandonment, at least in the near term, of the goal of ensuring quality services at just, reasonable, and affordable rates for all consumers because it will concentrate limited resources away from many companies who cannot provide this service in the absence of support. While the PSC and the Division believe the Commission should reject the proposed changes, at a minimum, the Commission should continue providing support for the duration of companies' indebtedness incurred to achieve the type of universal service and advanced infrastructure that the Commission has so recently encouraged.

Jeopardizing past investments' value and companies' health

The Commission's stated intent to focus limited resources in the Connect America Fund first on unserved areas with the lowest costs per housing unit ensures that Utah's forward-thinking rural telecommunications companies with existing broadband networks located in sparsely populated areas will be cut off from federal support early in the Commission's transition process. While the PSC and the Division recognize that this plan may provide the Commission with the biggest bang for a limited buck as it strives to improve the nation's broadband penetration numbers, we are concerned that the Commission simultaneously ignores the fact that rural telecommunications companies have made investments based on the reasonable expectation that federal and state support would continue at reasonable levels.

Infrastructure investments are not generally made from cash on hand, but in reliance on financing. The repayment timelines for financed projects supported under existing Commission rules extends in many cases far beyond the transition period the Commission identifies. Thus, loans relying on federal payments will burden companies long after the Commission ceases those payments. While state USF monies exist to cover shortfalls in federal support, the state's fund has always been designed to supplement, not supplant, federal resources.

In the absence of federal support for investments already made, Utah's USF will be stretched to the point of breaking. Nearly every change in the Commission's proposed rulemaking will result in increased demand for funds from Utah's USF. Without increased contributions or diminished payments, Utah's fund will quickly be exhausted. Rather than proposing contribution reforms as contemplated in the National Broadband Plan, the Commission's proposed rulemaking instead deliberately shifts costs to the states. The state, then, is left to pay the cost of the Commission's

reforms as it is asked by telecommunications companies to fill the gap left by the lack of federal support. The diminishment of Utah's USF will lead to severe financial consequences for Utah's rural telecommunications companies, who will continue to bear the costs of providing services the Commission has previously identified as central goals.

Abandonment of past service goals

The Commission should be aware that in attempting to achieve its new goal of universal broadband service it will injure its previous goal of "ensur[ing] that consumers in rural, insular, and high-cost areas have access to telecommunications services at rates that are affordable and reasonably comparable to those in urban areas."¹ The proposed rulemaking will also, at least temporarily, result in providing worse broadband and voice service for Utah's rural customers, who face the threat of existing providers losing the financial ability to provide reliable service going forward. If this is the Commission's intent, the proposed rulemaking is an effective tool at achieving that intent. Otherwise, dramatic changes are needed.

The PSC and the Division understand the value of the Commission's desire to expand the availability of broadband services to those who do not yet have access to those services. However, in achieving this goal, the Commission should not be so single-minded as to diminish the value of what is already in place. Following the Commission's guidance and building advanced infrastructure in reliance on high-cost loop support monies, Utah's rural telecommunication companies have built networks providing advanced services. These networks function well and the companies that built them now stand to be punished by their success as the Commission sends them to the back of the line, behind companies who have neglected to build advanced infrastructure. This is unwise.

Conclusion

The PSC and the Division believe that a longer, better-conceived transition is needed if the Commission is to achieve its broadband goals without undoing past successes. Any transition period should continue to provide some level of support for investments made in reliance on the availability of federal support. The PSC and the Division urge the Commission to reject the proposed changes. In the event it elects to proceed, the Commission should change the proposal to protect the health of existing, well-run companies and state support systems.

Respectfully submitted,

/s/

Ted Boyer, Chairman

Utah Public Service Commission

¹ http://www.fcc.gov/wcb/tapd/universal_service/highcost.html (Accessed April 7, 2011).

/s/

Chris Parker, Director

Utah Division of Public Utilities